

Patricia J. Pikus, Inc. d/b/a Tarantino's, Inc. and Tarantino's Kitchens and Baths, Inc., Party in Interest and The Northeast Ohio District Council, United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Case 8-CA-20799

May 29, 1992

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

On May 3, 1990, the National Labor Relations Board issued an order adopting, in the absence of exceptions, the decision of the administrative law judge, directing the Respondent, Patricia J. Pikus, Inc. d/b/a Tarantino's, Inc., its officers, agents, successors, and assigns, to make whole the discriminatees for losses resulting from the unfair labor practices in violation of the National Labor Relations Act. On February 25, 1991, the United States Court of Appeals for the Sixth Circuit entered a judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay and reimbursement due discriminatees, on December 20, 1991, the Regional Director for Region 8 issued a compliance specification and notice of hearing alleging the amount of backpay and reimbursement due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letters dated April 15, 1992, the field attorney advised the Respondent and the Party in Interest that no answer to the compliance specification had been received and that unless an appropriate answer was filed by close of business April 22, 1992, summary judgment would be sought. Neither the Respondent nor the Party in Interest filed an answer.

On May 5, 1992, the General Counsel filed with the Board a Motion for Summary Judgment, with exhibits attached. On May 7, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. Neither the Respondent nor the Party in Interest filed a response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent and Party in Interest, despite having been advised of the filing requirements, have failed to file an answer to the compliance specification. In the absence of good cause for the failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay and reimbursement due the discriminatees and the payments due employee benefit funds are as stated in the compliance specification. We further conclude that the Party in Interest is a disguised continuance and/or alter ego of Respondent and is with Respondent jointly and severally liable for the amounts due under this Order. Accordingly, we will order payment by the Respondent and the Party in Interest to the discriminatees in the employee benefit funds.

ORDER

The National Labor Relations Board orders that the Respondent, Patricia J. Pikus, Inc. d/b/a Tarantino's, Inc., Cleveland, Ohio, the Party in Interest Tarantino's Kitchens and Baths, Inc., their officers, agents, successors, and assigns, shall make whole the individuals and employee benefit funds named in the compliance specification, by paying them the amounts set forth in the compliance specification plus delinquency assessments, with interest on the backpay and reimbursements to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws.